

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LOCKHEED MARTIN TRANSPORTATION
SECURITY SOLUTIONS, AN OPERATING UNIT OF
LOCKHEED MARTIN CORPORATION,

09 CV 4077 (PGG) (GWG)

Plaintiff,

ECF CASE

- against -

MTA CAPITAL CONSTRUCTION COMPANY and
METROPOLITAN TRANSPORTATION AUTHORITY,

Defendants.

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TRAVELERS CASUALTY AND SURETY COMPANY
OF AMERICA, FEDERAL INSURANCE COMPANY,
and SAFECO INSURANCE COMPANY OF AMERICA,

09 CV 6033 (PGG) (GWG)

Plaintiffs,

- against -

METROPOLITAN TRANSPORTATION AUTHORITY,
MTA CAPITAL CONSTRUCTION COMPANY, NEW
YORK CITY TRANSIT AUTHORITY, and
LOCKHEED MARTIN CORPORATION,

Defendants.

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**SUPPLEMENTAL DECLARATION OF MICHAEL CHARTAN IN SUPPORT
OF LOCKHEED MARTIN'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Michael Chartan, pursuant to 28 U.S.C. § 1746(2), declare as follows:

1. I am an attorney admitted to practice before this Court and am a partner of Duane Morris LLP, attorneys for Plaintiff Lockheed Martin Transportation Security Solutions, an Operating Unit of Lockheed Martin Corporation ("Lockheed Martin"). I submit this Declaration in support of Lockheed Martin's motion for an order in Lockheed Martin's favor granting partial summary judgment against Defendants MTA Capital Construction Company ("MTACC") and

Metropolitan Transportation Authority (“MTA”) (collectively, “MTA”). I am fully familiar with the facts set forth herein.

1. The Declaration of Matthew A. Taylor, dated July 15, 2013, inadvertently did not describe seven (7) documents referred to in Lockheed Martin’s moving papers.

2. Exhibit LM97 and Exhibit LM98, as set forth below, were both served on Counsel for MTA along with Lockheed Martin’s moving papers, and discussed in Lockheed Martin’s Statement of Undisputed Facts, dated July 15, 2013.

3. Exhibits LM99, LM100, LM101, LM102 and LM 103, as set forth below, were discussed in Lockheed Martin’s Statement of Undisputed Facts, albeit the references to these documents inadvertently omitted the correct exhibit numbers, and such exhibits were inadvertently omitted from the set of exhibits delivered to Counsel for MTA. A revised version of Lockheed Martin’s Statement of Undisputed Facts, including a red-lined version, has been delivered to Counsel for MTA along with this declaration and exhibits LM99 through LM103.

4. Attached as Ex. LM97 is a true copy of the report entitled Analysis of Project Delay, by PMA Consultants, dated March 21, 2011.

5. Attached as Ex. LM98 is a true copy of the report entitled Analysis of Project Delay by PMA Consultants, dated March 21, 2011, revised on June 16, 2011, and according to an enclosed covering letter, was transmitted to Counsel for MTA on February 3, 2012.

6. Attached from the Project records, produced between the parties or third parties in this litigation (“Project Records”), as Ex. LM99 is a true copy of the Meeting Minutes from the Monthly Agency Meeting dated April 20, 2009, marked at Kenneth Shields’ deposition as exhibit “Shields 19”, which Mr. Shields testified that he had prepared. *See* Shields Dep. 407:12-23.

7. Attached from the Project Records as Ex. LM100 is a true copy of an email from Alina Mejas to Ronald Masciana attaching the MTA IESS Peer Review Report dated April 12, 2007, produced by MTA, Bates stamped MTAHQ_E 00006347-48.

8. Attached from the Project Records as Ex. LM101 is a true copy of MTACC's response to Lockheed Martin's Request For Information Number 268, submitted on October 16, 2007, which was produced as part of ProjectSolve at C-52038 – Design and Installation of an Integrated Electronic Security System & Security (C3) Centers > 08 RFI's > MTA RFI's > MTA RFI 268 – NYCT 13 URT Legacy Systems_Resp. Doc. Project Solve is a file sharing website and database that the parties used during the IESS project to exchange documents and submittals, and which MTA produced to Lockheed Martin in this litigation in its electronic form.

9. Attached from the Project Records as Ex. LM102 is an excerpt of the true copy of an email from Avery Huggins to Terrence Feters dated May 20, 2008 regarding the Operational Readiness Workshop and attaching slides, produced by Lockheed Martin, Bates Stamp LM-E-00017017, as marked by counsel for MTA at Avery Huggins' deposition as exhibit "Huggins 33."

10. Attached from the Project Records as Ex. LM103 is a true copy of the letter from MTA to Lockheed Martin, dated November 26, 2008 (IESS MTA-CCM/LM-01466).

Dated: New York, New York
September 4, 2013

/S/ Michael Chartan
Michael Chartan (MC 4609)